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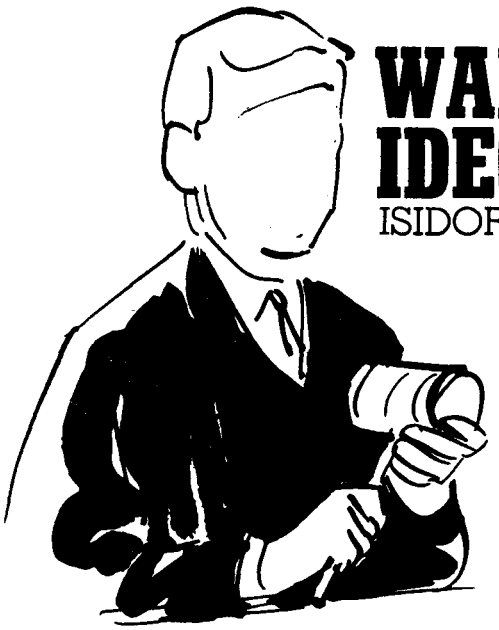

WARREN BURGER: IDEOLOGUE AS REFORMER

ISIDORE SILVER

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TWO'S A PARTY?
SISYPHUS

JEWISH AGENDA, CATHOLIC AGENDA
MICHAEL NOVAK

DIVORCE, SI – PAPA, NO
HENRY TEN KORTENAAR

HOSPITALS AS NEIGHBORS
PETER FREIBERG

IMPERFECT CIRCLE
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WILLIAM LANOUETTE
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Mother Jones

CORRESPONDENCE:
Georgetown
Patriarchy
Hereditarians
Ernesto Cardenal

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CORRESPONDENCE

Hoya, Georgetown!

Princeton Junction, N. J.

To the Editors:

EARNEST LINES FOR FATHER HENLE

Say not the struggle naught availeth:
Fast Eddie slow, ere he prevaileth.

RICHARD H. RUPP

Fathering the Nest

New York, N. Y.

To the Editors: It is impossible, in the few words permitted in a letter to the editor, to respond satisfactorily to a review as muddled as Jean Elshtain's review of my *The Inevitability of Patriarchy* [Mar. 8]. I can merely present a brief summary of the book's reasoning and hope that the interested reader will compare Dr. Elshtain's representation of the book with the argument that I did, in reality, present.

In *Patriarchy* I attempt to demonstrate that:

A. Every one of the thousands of societies on which we have any evidence is patriarchal (males attain the upper positions in all hierarchies) and male dominant (authority in male-female relationships is associated—by both male and female feelings and by customs and values—with males). Moreover, in every society it is males who attain the non-maternal roles and tasks that are given high status.

B. Explanations of these universalities that do not posit the importance of a male-female physiological dimorphism generating in males a greater "drive" or "need" to attain dominance —explanations such as those emphasizing the woman's child-related roles, the historical absence of contraception, various economic factors, or the male's greater physical strength—all are either internally illogical or disprovable with the ethnographic evidence. Whether one views the physiological factor that (when cued by the environmental presence of a hierarchy or member of the other sex) motivates the male, more strongly than the female, to manifest the behavior that is necessary for attainment of hierarchical position or dominance in male-female relationships as a "drive" or as a "need" is as unimportant for purposes of theory as whether one views the factor we loosely term the "sex drive" as a "drive" or as a "need."

C. We need not merely posit this physiological dimorphism. The evidence provided by the study of human beings, other primates, and controlled experiments of experimental mammals overwhelmingly demonstrates that the testicularly-generated fetal hormonalization of the male central nervous system promotes early maturation of the brain structures that mediate between male hormones and outward behavior, thereby rendering the male hypersensitive to the later presence of the hormones that energize dominance behavior ("aggression").

D. Social values, socialization, and institutions conform to, and exaggerate the importance of, the behavioral differentiation that is rooted in the physiological dimorphism; the stereotype "men are aggressive and women are passive" both represents the reality that males *are* more aggressive than females and exaggerates this quantitative and continuous statistical reality into one that is qualitative, discrete, and absolute—thereby exaggerating the behavioral differentiation that physiology alone would engender.

Dr. Elshtain's description of my operational use of "aggression" as "magic" demonstrates only that—as is always the case when one uses this word—the speaker lacks understanding. Operational directions serve as linchpins in some of the most rigorous scientific theories and, as long as the theories themselves are falsifiable (i.e. not tautological), such definitions are not only permitted, but desired. (In the paperback edition I discuss in greater detail the specific behavioral manifestations of "aggression," but this does not make the theory any more scientific; the hardcover version specified the hormonal elements, specified the institutional elements, and predicted that no society could develop that lacked patriarchy. Whether correct or incorrect, it is as "scientific" as any other scientific theory.)

Dr. Elshtain argues that one can not use the term "patriarchal" to describe all the various societies with all their varying religious, economic and social systems. One can if in all of these societies from the simplest to the most complex, males have attained the positions of authority in hierarchies; they are all, by my definition, patriarchal.

STEVEN GOLDBERG

Reply

Steven Goldberg's response to my review of his book fails to answer my major criticisms. I will not recapitulate my critique at this time, but I would add the following: those in positions of dominance and privilege in a society often create an ideology which justifies that dominance. One of the characteristics of such an ideology is a denial of its own existence; therefore, it must be dressed up as something else. 'Science' is sometimes useful for these purposes. If contestable claims can be advanced within an apparently rigorous scientific model, the ideological presumptions which underly the model may remain hidden from view. If a phenomenon (slavery, sex discrimination, etc.) exists *by nature,* is a part of the 'natural' order of things according to 'scientific' fact and theory, it becomes easier for those in power to continue to exercise dominance because those being dominated are told to believe in their own natural inferiority. Whenever I encounter such claims to scientific objectivity in a work of social analysis I ask myself: whose interests are being served by the system the author is engaged in justifying?

JEAN BETHKE ELSHTAIN

The Hereditarians

New York, N. Y.

To the Editors: As a white-school-power American, I would dread being subjected to an I.Q. test devised by, and for, the Puerto Rican Americans of East Harlem. Or by and for the Black

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Americans of the rural South. Or by the Mexican Americans in for life in San Quentin prison. As they dread our tests. I say this to underscore a shortcoming in Marc Lappe's otherwise thoroughgoing critique of the methodological and moral irresponsibility of hereditarians like Shockley and Jensen ["Censoring the Hereditarians," April 26]. Failing to view individual intelligence as developing and bearing fruit *within* and *in terms* of a specific culture invariably results in the inflation of our white-school-power I.Q. score into a trans-cultural criterion of intellectual capacity that judges whomever it happens to touch. An insidious form of imperialism.

THOMAS A. CAFFREY
Bellevue Psychiatric Hospital

Nicaraguan Poetry

Davis, Calif.

To the Editors: Ronald Christ introduces his recent interview with Ernesto Cardenal [Apr. 26] by referring to the Nicaraguan poet as a native of South America. The editor of *Review* thus removes Granada, Nicaragua, from the shores of Cocibolca, in a fancied transcontinental relocation which presumably symbolizes his wish to better inter-American relations by bringing us all closer together. Or perhaps he is enacting a good-natured parody on a cruel stereotype, the provincial U.S. professor who never could get all that geography south of the border straight. If so, the gesture seems unnecessary in a time when even the *Encyclopaedia Britannica* has stopped calling Rubén Darío a South American.

Conventional geography better serves the end of understanding Cardenal's perception of his own artistic contribution and the wish he expressed in the interview, "that my poetry should not be only known as the poetry of Ernesto Cardenal but rather as Nicaraguan poetry." It is difficult to exaggerate the importance of his country and his national identity for this poet, whose very breadth of view and range of competence are sustained by his intense con-

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CONTAINING NUCLEAR PERIL

Attention is riveted these days on happenings in the Middle East and in Washington, and understandably so. Enormous stakes—international, national and personal—are bound up in Arab-Israeli peace, the Nixon-Kissinger missions and the impeachment proceedings. Yet as events in these areas dominate the energies of statesmen and politicians, and absorb the interest of the public, a series of occurrences is taking place elsewhere with ominous implications for the future, whatever the resolution of some more visible problems. Reference is to developments in the nuclear arms field: India detonating its first atomic bomb; France following through on yet another sequence of above-ground atomic-bomb tests in the Pacific; the United States firming up a decision to switch to silo-killing capability, a decision with certain human considerations to commend it (it being less repugnant, obviously, to attack nuclear silos than population centers) but one that radically alters "strategic doctrine" by shifting policy from one of deterrence to first-strike capability. Meanwhile, the U.S. enters into controversial pacts spreading nuclear technology through the Middle East. The technology is to be used specifically for peaceful purposes but the risk remains of plutonium by-products being diverted to make bombs. India's surreptitious adaptation of Canada's technological assistance stands here as warning.

The nuclear arms race, in a word, is rushing ahead pell-mell on so many fronts and in so many directions that negotiations like SALT-II involving the U.S. and Russia seem to acquire a kind of esoteric quality. People might easily wonder what can be hoped by way of nuclear controls and disarmament, given SALT-II's limited scope and its bilateral character. No accord by Russia and the U.S. will bind China or stay France's atomic instincts; at least one might so presume from past experience. Russia and the U.S. will seek—and gain—many co-signators to a pact of theirs, but is that success enough? Russia and the U.S. are not The World, nor are their respective blocs The World's only camps. They are, in fact, only two members of a "nuclear club" that becomes less exclusive by the year.

Under the circumstances, it is possible to view the negotiations that may reach a climax with President Nixon's visit this month to Moscow as a

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mite quixotic. Except, they are anything of the kind. SALT-II negotiations are crucial for their larger objectives, notably the limiting of multiple independently targeted nuclear warheads, and, no less importantly, for their potential psychological impact. Without the former, the arms race graduates to a scary and perhaps inescapable plateau; in the absence of the latter, the impulse of smaller powers to develop nuclear capacities of their own is certain to quicken. If India feels the need and has the capacity for manufacturing an atomic bomb, why not also Japan, West Germany, Israel, Brazil and now Egypt? Manufacture them they may without convincing demonstration at last on the part of the superpowers that a commitment exists to restraint, control, and eventual disarmament. Time is running out in this regard.

It is reason, in sum, to hope for the most successful of summits. One might be legitimately concerned that President Nixon will overbargain in Moscow in order to achieve effects in Washington. Nevertheless, it would be the narrow person indeed who begrudged him any solid agreements that would lessen nuclear peril in the world.

In related context, it is good to learn that the proposal is to be revived whereby impact reports would be provided Congress on all new strategic arms systems. The proposal is the brainchild of Rep. Michael Harrington of Massachusetts, and emerged in April as an amendment to a funding bill for the Arms Control and Disarmament Agency. The amendment was strenuously opposed by the Nixon Administration and the Pentagon, and went down to defeat by a House vote of 239-152. The Harrington amendment remains, however, a worthwhile measure, basically for the insurance it would provide that arms-control considerations are brought to bear on weapons decisions, something totally lacking at the moment. As Mr. Harrington has noted, what Congress traditionally receives by way of background to decision-making is "the sanitized, pre-packaged version of the military side of weapons programs that the Pentagon wants it to hear." Hence, Congress constantly risks voting seemingly one-dimensional programs—e.g., multiple re-entry warheads—that turn out to have severe destabilizing effects internationally. The Harrington amendment would not be an absolute failsafe against destabilizing authorizations, but it could help signal awareness to the implications of some —or even one. This is an advantage not to be cast aside.

Summer Schedule

In keeping with the usual practice, *Commonweal* will again appear on alternate weeks during the summer months. Forthcoming issues will be dated July 12, July 26, August 9, August 23, September 6 and September 20. From then on we will resume our normal weekly publishing schedule.

WASHINGTON REPORT

TWO'S A PARTY?

A responsive party system demonstrates an ability, through its elected agents, to translate attainable programs into law. The two major political parties, in Congress assembled, do not now meet this test. Nor have they for some time. As a result, the Congress and its committees often resemble commodity exchanges at their speculative worst. This benighted condition has been sporadically disguised—such as by the heroic intervention of Lyndon Johnson when he unexpectedly became President.

Johnson freed blockaded legislation, in the fields of civil rights and education. However, stalemated politics reasserted itself—masquerading itself as "consensus politics." This condition doesn't preclude any change. The minimum-wage is raised, but there's no response to social aggravations generated by an inequitable distribution of wealth. Social security benefits are increased, but there's no capacity to provide a decent program of health care.

The condition is further aggravated by "Watergate," which has done for politics what Spiro Agnew has done for Hellenic culture. It's not clear whether politically-minded Americans, as a consequence, will shut up shop or work harder.

The insufficiency of parties has launched new political relief missions to rescue the suffering public. Ralph Nader appeared from nowhere and shamed giant industrial corporations—and the Congress—into efforts to stop producing harmful commodities, be they automobiles or drugs. John Gardner walked out of the Secretaryship of the Department of Health, Education and Welfare and founded "Common Cause," whose 325,000 members are forcing federal and state politicians to cleanse the dirt from the political-financing system. Students took to the streets to protest the lethal results of a hitherto sacrosanct "bipartisan" foreign policy guarded for two decades by the Foreign Affairs Council crowd of Lovett, McCoy, etc., in New York City. As this bi-

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partisan policy buckled, so did the patronage on the air-shuttle service between there and Washington diminish and has now been abandoned.

Caught in an economic ambush, the middle-class, Mr. and Mrs. In-Between, are now splitting their tickets on election days in an effort to elect candidates not tone-deaf to their beseechments. The bully boys of left and right have been seen in the streets.

Meanwhile, despite the influx of newcomers into elective office, cadres of the major parties continue in their Whiggish ways. In 1972, the AFL-CIO's gouty hierarchy, like the Bourbon Democrats they are, worked to stage George McGovern's Waterloo. Congressional seniors draw contentment from the computer analyses of Scammon & Wattenberg, which may tell us how matters are, but not how they should be. And the hired guns of the President have tarnished the Presidency for awhile. Even Parson Weems couldn't restore romanticism to the Presidency, as matters now stand.

No wonder new channels are being cut by those working to make the government work for the many. But along the way, some are dropping out and some, judging by a sampling of Congressional mail, may be waiting for a Cromwell to instruct the Congress to go; it has sat far too long. A Cromwell who puts forth the false but appealing suggestion that a strong leader somehow can get them to safety in a long leap forward, ignoring means and, thereby, distorting ends. If this appeal is made and responded to, the Democratic and Republican parties have themselves to blame. For, although parties lack Constitutional sanction, they should, and have been, vehicles of responsible change, large and small—change that modifies inflammatory sectional appeals and unbridled personal ambitions.

Scammon & Wattenberg to the contrary, there is no need to play only between the 35-yard lines—the goal posts are not there. Actually, the play has been between the 45-yard lines. Heeding their instructions, one would skate only between the blue-lines and play ball only between 1st and 3d bases. The analogy is false. It's not so much that within the 35-yard lines lies the muddled middle as that the middle is muddied. This may account, too, for the durability of the least appetizing individual in politics today—Richard Nixon, who has stalked us for a quarter of a century.

Historically, new parties—so-called "third parties"—have been born because existing parties were, so to speak, continuing to contest in close quarters amid cries for change. There's no law against competition for political Tweedledum and Tweedledee. Third parties are not heresy. There have been several hundred of them, at national, state and local levels—mostly since 1840.

Political parties themselves have been a permanent feature, although they were unwanted by Washington and other founders.

Three factors have generated third parties. One, existing major parties, while sectionally strong, have been unable to elect a sufficient number of their candidates to achieve control of the Presidency and/or the Congress. Second, a major party has broken down under the load of keeping its diverse and quarrelsome interests together. And, third, as Howard Penniman has pointed out: The parties, elaborate organizations, spreading over a vast Continent and serving a vast population, are unable, or unwilling to grapple with new primary issues without fear of coming apart.

A new party appears and eagerly assumes the rejected responsibility. For a score of years in the early 19th century, the Democratic-Republican party was the only party, although there were contentious factions within. Jackson's ambitions whelped the National Republican party, which, in time, became part of a Whig coalition. One new party, called the "Barn Burners" by opponents, in coalition with other dissident elements generated 10 percent of the Presidential vote for Van-Buren in 1848.

The first "third party" is usually identified as the Anti-Mason party. At least, it was the first such party to hold a national Presidential nominating convention. The longest-lived is the existing Prohibition party, aged 105 years. Agrarian discontent in the late 19th century generated parties that created a deep impact—the Greenback (National Independent party) being one. In 1892, the Populist party's Presidential candidate polled 1-million popular votes and 22 electoral votes. The Progressive ("Bull Moose") party, challenging the Republican party, enabled Wilson to be elected in 1912. The Social Democratic party, with Eugene Debs as its Presidential candidate, polled nearly 900,000 votes that same year, and, simultaneously, elected more than 300 candidates to state and local office.

Of course, few third parties were serious electoral threats—only seven have won as much as 9 percent of the popular vote in a Presidential election and only 9 have won electoral votes, the latest in both categories being the American party with its candidate, George Wallace, in 1968. And only one, the Republican party, became a major party, its gestation being those bitter years prior to the Civil War.

But often, third parties moved majors off-the-dime.

Given these muddled times, there are, again, factors encouraging at least a re-alignment of the major parties, One factor is that the Republican party is taking root in the South, not simply giving, as it did in the 1950s, its Presidential vote to the Republican nominee. As an increasing number of Republicans are elected—and, importantly, re-elected—to Congress, this will alter the Southern-nurtured seniority system to one favoring national, not sectional, members in leadership positions.

Inevitably, talk also is being heard in Washington about a "third party"—that is, one whose ties don't lead to Governor Wallace. Endemic racism has led

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many to discern increasing political "independence" on the part of blacks, which, may mean a slide to indifference or a movement to more aggressive single-issue politics outside the major parties, although Charles Evers discounts this. Also footloose, in terms of political alignment, are many of the 25-million young people who became eligible to vote as of two years ago. In addition, nearly half their elders have told pollsters that they have become "independents," although that is not a sufficiently precise term upon which to suggest their potential political conduct and attitudes.

Another factor has altered, if not loosened, party affiliation: television. It has at times by-passed and at times overwhelmed conventional political communication between leaders and voters. One example is the "Checkers" speech of Richard Nixon in 1952, the response to which helped keep him as General Eisenhower's Vice Presidential nominee. Another example is that of television reporters' being able to freely walk around convention halls interviewing delegates to Presidential nominating conventions. The wilder the delegate the more spectacular the interview.

Republican and Democratic parties have shown some effort to bring to their conventions other than professional pols and their acolytes. The Democrats have been more responsive in trying to drain off dissatisfaction. They've more thoroughly reformed their delegate-selection process and their convention procedures—although Bourbon Democrats, through their cover group, the Coalition for a Democratic Majority (CDM), are persistently seeking to roll-back those accomplishments. A bitter clash over party policy and attitudes will be fought this December when a "mid-term" convention will be held at Kansas City, Mo.

Nevertheless, political parties find themselves without much traction on a slippery slope. Lyndon Johnson found many Democrats unappreciative of his accomplishments in the field of domestic legislation. It was unfathomable to him that people want not only a piece of the pie—"serving docility with the doughnuts"—but also a piece of the action. Status-quo political brokers, set in their ways, can't accommodate.

Common Cause, perhaps the major new non-partisan grouping of citizens, appears not completely adequate. Its grey-flannel, middle-class perspective does not appear to include within its ambit tough issues such as maldistribution of wealth, substantial tax reform and other bread-and-butter issues.

The problem of an ineffective political-party system persists, while an urgency for change grows. In the Sixties, Stephen Bailey observed that the closer one gets to national political parties the harder it is to see them. In one writing of his, he commented: "So long as we lack strong national parties operating as catalysts in the Congress, the Executive Branch and the national government as a whole, and between the national government and state and local governments, power will continue to be dangerously diffused—or, perhaps what is worse, will whip-saw between diffusion and Presidential dictatorship."

The appeal of the major parties is now low enough, so the polls report, that there may exist insufficent institutional energy for each to redress itself so as to send strong, appealing signals to voters, whatever their political tendencies. Apathy toward the current crop of potential Presidential nominees of both parties reflects this.

Are we due for more drift? A re-alignment of parties? A new national party with constructive aims to speak fiercely to the issues of income-redistribution, sanity in foreign policy and decent minimum shelters of health-care? The needs are there for such a responsive new party.

The nation asks to be spoken to, not simply by isolated individuals but by those with organizations capable of delivering on the fine words. After tracking America, Bill Moyers asked: "Can the country be wise if it hears no wisdom? Can it be tolerant if it hears no tolerance? Can the people I met escape their isolation, if no one listens?"

The Democratic party is specially accountable. It has strummed the voters' aspirations and hopes for far too long, without delivering sufficiently. It has traded on its New Deal reputation for far too long. Kansas City in December is its opportunity to redress itself—and, failing this, to suffer at the polls two years hence.

SISYPHUS

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JAMES NEYLON

DEEP THINKER

Whether the head fills the tooth with an ache,
or the tooth fills the head, the thought of pain
throbs and waters the mouth until speech is slurred
and pain is thought to be wet and is not felt

to be thought, but is a mental jaw breaker the tongue
works in the cave of the mind. And it becomes
the purest preoccupation. One goes in there
like entering an iceberg to trap seals

when one has no need of sealskins or furs,
when there is no iceberg and are no seals,
when one cannot even imagine these existing
not even as metaphysicals. Such concentration

moves through confusions of its own undoing
head first like a polar icebreaker; but not
more than it softens and brings the eyes to a pin-fine
focus and fills them with the mist of thought.

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JEWISH AGENDA, CATHOLIC AGENDA

MICHAEL NOVAK

Writing in the *Village Voice* [May 23], Ellen Willis describes eloquently what it its like, internally, to be Jewish in the United States. The assumption of gentiles, she finds, are often so radically, so structurally, anti-Jewish that conversation is hardly possible. Even to *reply* is already to concede too much.

I found Ms. Willis' analysis a parable for my own experience as a Catholic in this society. Like Jews, Catholics too may succeed in the United States. Like Jews, Catholics may also assimilate—yield up much that was distinctive; mute and modify; grow; even undergo conversion. Much that springs from assimilation may, indeed, constitute genuine human advance. Some Anglo-American political traditions, and the ways of perceiving and feeling that are their cultural presupposition, represent, for example, true advances over some traditions of other countries. Many Jews, like many Catholics, have not only found here a hospitable culture but, more than that, have extolled some of its remarkable historical achievements. To have found a home here is a gift.

Still, like many Jews, many Catholics also see this nation in the perspective of outsiders. Ultimate economic power in city after city, and in the nation as a whole, is Protestant. Symbolically, too, the basic symbols of the nation's self-understanding are still, far more than they ought to be, Protestant. Both of these levels—the economic and the symbolic—are deeper and more determinate than politics. There may be a Polish mayor in Buffalo and an Irish mayor in Chicago; but symbolic and economic power in both cities is Protestant.

Seldom in the United States does an American Catholic experience anything that is really first-rate, really beautiful, really of highest taste, status and aesthetic truth. The great buildings, the great homes, the great monuments are almost always Protestant. (Only in Europe is the aesthetic identification reversed; there, I always felt, the Catholic sensibility breathed its natural air, and American Protestants felt uneasy, a little out of place, not quite approving.)

There are, moreover, fairly small elites in the United States called in the news magazines "the molders of public opinion," "the decision-makers," and the "trend-setters." These are the boards of directors and overseers of universities, institutes, corporations and foundations; they are reporters, editors, publishers, producers. These elites, too, are overwhelmingly Protestant: often a kind of secular Protestant.

What such elites approve of in Catholic circles are "liberalizing" tendencies, assimilationist tendencies. The "disintegration" of the Roman Catholic Church in recent years confirms their own sense of solidity. The "Protestantizing" of the church is a kind of flattery, isn't it?

I do not know whether the editors would agree, but in this context it seems to me that magazines like *Commonweal* have a new role to play. In the old days of virulent anti-Catholic conviction—the days of early Paul Blanshard and almost total intellectual hostility (represented in the 1958 conference sponsored by the Fund for The Republic)—*Commonweal* represented a sane, reasonable, intelligent voice. On the one side, *Commonweal* worked for reform in the Church; on the other, it replied with some grace to critics who expected no reasonable reply.

Today the task is much more difficult. Anti-Catholic sentiment is once again on the increase; the ancient and traditional nativism has never died and has not faded away. There are now so many articulate and "successful" Catholics, who sit loose in respect to their institutional affiliation, that being talented and being Catholic is no longer considered an anomaly. Practically everyone has some best friends who are—or once were—Catholic. . . .

Two items have in recent months been on the Jewish agenda before the American public: help for Israel and relief for Soviet Jews. Two items have also been on the Catholic agenda: aid to parochial schools and removal of the deep affront of legalized abortion. Ellen Willis feels insecure about how lasting the positive response of America will be to the two items on the Jewish agenda. But many Catholics feel frustrated beyond measure by the intense hostility *their* agenda reaps as its reward.

Adam Walinsky and some others have written eloquently about the legitimate needs of parochial schools, more than a third of whose pupils (in some cities) are black and Latino. But influential leaders in our society have not, so far, taken a generous and large-minded approach to this question; on the contrary, the attitudes of many are niggardly and narrow.

Since so many in our society desire —and will have—abortions, I cannot bring myself to support legislation that would bar abortion outright. Abortion is, to my mind, one of the most calculated and coldest forms of egotism and cruelty. But there is no hope of persuading some, whose consciences are quite different, to give up the practice. The law must sometimes tolerate immoralities, especially when consciences differ (as they do in this case) concerning what is moral. Many, in good conscience as they see it, hold abortion to be moral. Thus I, for one, would let the judicial and electoral process decide the legal issue.

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WARREN BURGER: THE IDEOLOGUE AS REFORMER

ISIDORE SILVER

His 'reform' motives, to put it generously, are mixed

The banner of "judicial reform" is a multi-colored, many-hued, kaleidoscopic standard under which many men and institutions march. Our system of "injustice" has enlisted a formidable array of critics ranging from Roman Hruska on the right to William Kunstler at the other end of the spectrum, and reform is clearly an idea whose time has come. Unfortunately, it is the kind of idea whose time is always coming, but never quite arrives. The "system" is so complex that its faults are never quite specified and solutions are never quite agreed upon (indeed, they often contradict each other). Of late, failure may be partially ascribed to a growing suspicion that, for many, "reform" is largely a political concept designed (as many political concepts are) to perpetuate an unjust and increasingly untenable status quo which rewards some social and economic groups and disadvantages others.

Warren Burger, America's leading judicial officer, provides the primary contemporary example of a nationally eminent leader whose "reform" motives are, to put it generously, mixed. Indeed, he appears to be repeating a traditional American political pattern—the deflection of an otherwise socially beneficent impulse (one which under the aegis of his predecessor achieved some success and roused substantial hopes) into conservative, perhaps even reactionary, channels. In short, he is a conservative ideologue in reformer's clothing, and it is important to comprehend the nature of his ideology to (a) ascertain what he means by "reform," (b) appreciate that that meaning is value-laden rather than value-free, and (c) focus upon those areas needing reform which are, of necessity, ignored by his philosophical orientation.

With a zealousness and dedication that have not been seen in a Chief Justice since William Howard Taft (1921-30), Burger has in the last five years pressed Congress and the organized bar to contemplate a spate of innovations designed to "modernize" the federal judiciary. The analogy to Taft is both accurate and instructive—for both men stressed "efficiency" and argued that judges have no role in achieving social change. Recently, Burger decried a "tendency that is unique to America, to look to the courts to solve all problems" (unique it may be, but since that tendency was apparent to de Toqueville 145 years ago, it is not particularly novel). Burger's concepts of "modernization" and "efficiency" are shaped by this catechism.

To both Chief Justices, the Law is a conservative institution resistant to rapid change. Although Burger, on the one hand, acknowledges that "change is the very essence—the very heart—of the common law concept," he believes that "legal principle can't be sound if its growth is too fast." Of course, times change, and along with them, so does rhetoric. Taft was concerned that the federal courts be ever vigilant against attempts by the states to regulate business while Burger fears that the federal courts have unduly harassed our national dispensers of economic well-being. Burger has reminded us that "Federal courts serve a limited and narrow function" and that environmental and consumer protection laws should be enacted by the states rather than the federal government because "some of these problems are local." The rhetoric of "efficiency" is invoked to curb the role of the courts. In 1970, Burger noted that federal legal services received $58 million ("one half of what the courts get") and that the program, though "sound," was

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"developed without adequate planning for its impact on the courts." He later proposed that all new legislation on behalf of consumer and environmental interests be accompanied by an assessment of how many more cases will be added to federal court dockets (a "judicial impact statement" similar to the "environmental impact statement" now required by federal law), and the proposal raised the suspicion that he does not advocate easy recognition of new and developing rights. Taft was an inveterate lobbyist for his causes and would have not been surprised to learn that Burger actually attempted (through an intermediary who also happened to be the Chief Administrator of the United States courts) to influence a 1972 Consumer Safety Products Bill. The fact that Burger's "lobbyist" accompanied a private drug company representative to see Carl Albert to argue against the bill's "class action" provisions would not have fazed Taft; he would not have blanched at one Congressional critic's exclamation that Burger's conduct was an "arrogant interference in the legislative process" which smacked of "judicial misconduct." So much for "efficiency"!

Burger has become a de facto judicial president of the United States (as well as its resident legal ethics counselor, with one notable exception to be discussed later), and his "state of the judiciary" addresses to the American Bar Association since 1970 have been both eagerly awaited by, and influential within, the profession. Much of the activity is unexceptionable and even conventional, as he has stressed the necessity of removing auto accident cases from the federal courts (and even from the courts altogether on the "no fault" theory), the desirability of improved court management techniques, and even the necessity for prison reform (in general terms). But, there is more.

If the impulse is Taftian, the philosophy is Nixonian. If the President appeals to the "silent majority," then the Chief Justice responds to the "quiet and patient segment" of America which is sickened by the criminal justice system. If Nixon believes that the Amercan people are children, then law students are unruly and law professors must teach them about "decorum" (which Burger intriguingly equates with "ethics"). If Nixon inveighs about "national security," then the Burger Court could promulgate new federal rules of evidence in criminal cases which recognize "secrets of state" and, in the guise of evidentiary reform and unformity, effect a profound change in trial procedures where the government seeks to conceal relevant evidence (the rules incidentally were adopted after the Justice Department protested to the Court that previously proposed Earl Warren-sponsored rules were too liberal; the whole matter has been suspended by Congress pending review). Burger endorses a form of judicial revenue-sharing when he argues that "I hope we will never be so bigoted as to think that state judges are any less devoted to the principles of the federal Constitution than other judges and lawyers."

The nadir of the Nixon-Burger alliance was reached at the July, 1971 American Bar Association convention (in London) when the Chief Justice, after attacking his special target for that year, "unruly lawyers," sat by while John Mitchell hysterically inveighed against "the hydra of excess proceduralisms, archaic formalisms, pretrial legalisms . . . ," the "sea of legalisms" that was drowning America (Is this the same John Mitchell who sailed on that sea in a New York Federal District Court?). The spirit was so contagious that the then President of the Bar Association and even the Lord Chief Justice of England joined in a sustained attack on the Warren Court.

For several years, Burger attacked lawyers who caused courtroom disruptions; indeed, approximately half of his "reform" proposals involved methods to curb such conduct. Since several studies, including one by the Bar Association of the City of New York, have shown that such disruption (especially by lawyers) was minimal, even in the heyday of the Chicago Seven trial, he has abruptly changed tactics by crusading against something called "incompetence." Since no one wants his trial lawyer to be incompetent—especially in a criminal case—Burger's cry has engendered widespread agreement. But the adoption of his November, 1973 "barrister" proposal (he is enamored of England)—whereby "advocacy training" replaces the third year of law school and an apprenticeship under a "skilled practitioner" would be required beyond that—is fraught with problems beyond those of simple "elitism." For one thing, the proposal is designed for law students, not for practicing attorneys who later (like Ralph Nader) become "advocates" (would they be precluded?). For another, the scheme is modeled upon "barristers' offices . . . situated in the same area, thus creating a unique [and easily disciplined?] professional community." Since many civil-rights, civil-liberties, and poverty lawyers are not exactly "clubby" fellows, one wonders what the informal and formal limitations upon membership in this "unique professional community" are likely to be. Just who will decide which "skilled practitioners" will play the role of "master?" One suspects that Burger is not as worried by "inadequate courtroom performance" as he is by an alleged lack of "ethics, manners and deportment" of some trial attorneys (to quote from the same speech). In 1971, he decried a legal education which "teaches lawyers to think brilliantly but fails to teach them to behave properly . . ." (are these "brilliant" lawyers also the incompetent ones he derides two years later?). If lawyers are, in Burger's words, "society's peacemakers, problem-solvers and stabilizers," the "new breed" are also its critics and advocates of its discontented groups—how would they be affected by Burger's proposed "reforms"?

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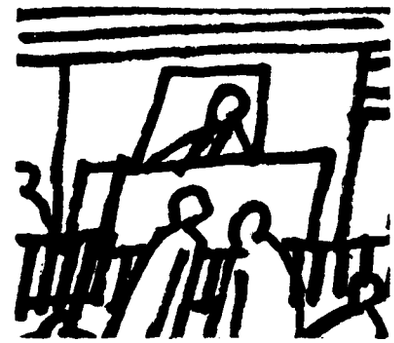
Interestingly enough, Burger's preoccupation wth disruptive or badly trained lawyers is not accompanied by a similar concern about our disgraceful judiciary. When the smoke of the Chicago Seven trial cleared, both the Seventh Circuit Court of Appeals and Judge Gignoux (in the contempt trial) recognized that the primary disruptive force in the courtroom was Julius Hoffman, not William Kunstler. In a famous speech in May, 1971, Burger condemned both defense counsel and the news media for their rough and tumble ways (to him, a 19th century anachronism) several times, but glossed over the role of the judge and the prosecutor. Judges often tend to be pro-prosecution (in one recent survey about a quarter of the judges responding freely and without evident embarrassment admitted this) and do not conceal their preferences from juries. That state of affairs may be changing and, if so, it indicates that the most profound effect of the Hoffman-Kunstler travesty may involve the heightened sensitivity of trial judges in both "political" cases and otherwise to the claims (and even the tactics) of defense attorneys. Our system of justice, especially criminal justice, has always been rough and tumble, and "advocacy" in this country in no way resembles that of decorous (and class-conscious) England —and the most unruly participants in our system have traditionally been the judges. If change is desirable, it must come in our national mores, not in the "tactics" of the defense.

Burger's most ambitious reform projects have met with mixed results—abetted by a general (though rarely expressed) feeling, even among the organized bar, that he was asking for too much too quickly. While some of that caution might be attributable to the well-known propensity of the legal profession to respond slowly to change, much inheres in the nature of the proposals themselves. For instance, a Burger-sponsored committee of eminent law professors and attorneys recommended the creation of a National Court of Appeals in December, 1972. Burger, testing the wind, did not immediately —or even subsequently—endorse this proposal allegedly designed to relieve the Supreme Court of much of its "unbearable" workload. Criticism from within the Court (especially by Justices Douglas, Brennan, and Stewart) as well as a rare Earl Warren attack have evidently cooled the Chief Justice's ardor for the scheme. In fact, the proposal for the National Appeals Court exemplifies many of the subtleties and dualities of the reformer-ideologue schism.

Burger's rationale for requesting the study was simply that the Supreme Court (which annually decides 150 to 170 cases with opinions) was being inundated with cases. Since 1925, the Court has had a virtually free hand in managing its docket (thanks to a Taft reform), apart from the requirement that it take certain types of cases on "appeal." Burger has complained that the Court could not give even minimal attention to the 4,000 petitions for *certiorari* (discretionary review, as distinguished from "appeal") that reach it yearly. The blue-ribbon committee suggested the creation of yet another appeals court (there are already 11 Circuit Courts) to sift and winnow those dreaded petitions (many of which are filed by state and federal prisoners). The new court would take jurisdiction, deny (with no further right of either "appeal" or petition) most *certiorari* requests, pass on the merits of some, and submit approximately 400 (or 10 percent) to the Supreme Court. The Court in turn would probably take the 150 to 170 cases that now constitute its workload plus any



of the others that it wished to review. Since the parties to a case "finally" decided (or otherwise disposed of) in the new court would theoretically have no right to proceed further, one may well wonder just how the Supreme Court would even know just which "final" cases it would choose to take, but the Law, like the Deity, moves in mysterious ways its wonders to perform.

There is no question that the committee labored honestly to create a "screen" which would have no particular ideological bias. The seven judges of the new court would be chosen for three-year (staggered) terms by lot and would reflect diversity (in terms of experience and location since no more than one Circuit judge from each Circuit could be chosen); any three who agreed that a case should be sent "up" (four of the nine present Justices must concur now in granting a *certiorari* petition) would prevail. The Supreme Court, on its own initiative, as has been mentioned, could pluck a worthy, but overlooked, case.

Despite the apparent disinterestedness of the plan, some saw problems of ideology. Thus, Judge Henry Friendly of the Second Circuit (no great judicial activist) said, "Could the [Supreme] Court—or the country —accept a framework whereby an inferior tribunal, not necessarily in tune with the Court's views, could so largely determine, in a negative sense, the content of the Court's work?" While his comment may have been prompted by an understandable disinclination to be overruled by his brethren rather than by his superiors (remember, the judges of the new Court would be

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"drafted" Circuit Court votaries), the same motive could not have animated the disdain of Douglas, Brennan and Warren (the latter called the proposed new court a gaggle of "glorified law clerks"). The feeling among many critics was that the new court would inevitably be unresponsive to the developing legal currents sensed (or even nursed) by the Supreme Court, especially the Warren Court, and would play it "safe" by simply not taking the kind of cases which resulted in such historic decisions as *Miranda*, *Gideon*, and even *Baker* v. *Carr*. Although the point might be arguable today, when advocates of social change and civil liberties often do better in the lower federal courts (and indeed fear appeals to the Supreme Court by the government when *it* loses), we should remember that the Burger Court will not always be with us.

Burger's claim of judicial overload is itself fraught with ideological preconceptions. This should not be surprising for (a) "overload" has been the traditional rationale of Presidents' attacking the Court (F.D.R.'s 'classic' "court packing" scheme in 1937 was rationalized by his concern that "the personnel of the federal judiciary is insufficient to meet the business before them. A growing body of our citizens complain of the complexities, the delays, and the expense of litigation . . .") and (b) the lineup for and against the proposal in question is in large part ideological. Burger has not (seemingly) paid much attention to internal Supreme Court procedures which would create a manageable review situation—unlike some of his predecessors, especially Chief Justice Hughes. Instead he has chosen to embroil himself in a battle, at least in part ideological, and from which, under intense pressure (even the A.B.A. is "studying" the plan), he has retreated.

At times, it appears that Burger is advocating that litigation just go away. Thus his argument that consumer and environmental litigation be carefully considered, that three-judge federal courts (whose decisions can be directly appealed to the Supreme Court—and the Court must make such appeals) be abolished, and that prisoners be afforded administrative rather than judicial remedies are as much reflective of Burger's priorities (courts should be used to settle business disputes) as of any objective need for reform.

Burger's reform administrative philosophy is at one with his judicial outlook. His Court has cut back considerably upon the Bill of Rights—the cases are too well known to be discussed here, but it appears that each term of the Court is devoted to carving gigantic exceptions into one or another of the great rights. In June, 1972, the *Gravel*, *Caldwell*, and *Tatum* decisions all denied First Amendment claims; thus far, this term of the Court has been characterized by wholesale incursions into the Fourth Amendment as the police have been granted substantial power to search during and after arrest. The leitmotif of the Burger philosophy has been, as Curt Flood learned, "Let someone else do it." There have been minor counter mini-trends, some endorsed by the Chief Justice and some not. Thus, "respectable" and "law-abiding" minorities such as the Amish were exempted from a portion of Wisconsin's compulsory schooling requirements (in a scathing attack by Chief Justice Burger on public education) while "communes" of students cannot exist in towns that don't want them to.

Emphasis on the Trivial

The major difficulty with Warren Burger's conception of "reform" is not that it is too ideological (and too conservative), but rather that his zeal for efficiency and manners and his unconcern with substantive issues ("change in substantive legal institutions" he has said "can wait") focus on the trivial and ignore the major questions. Thus his persistent insistence on "civility" in the courtroom was refuted by Burke Marshall's contention (on behalf of the New York City Bar Association) that the criminal justice system "is more in danger from interference with counsel fighting for justice for their clients than from whatever disruption—and it is on the whole not very great—is caused by their efforts."

Burger is quite comfortable with *a* prison system, albeit one which is not utilized too often (probation being the preferred answer) while others, including a recent Presidential commission, have argued for a reevaluation of the entire concept of incarceration (indeed, the commission recommended that no new juvenile prisons be constructed). He doubtlessly believes in—or has failed to analyze or criticize—our sentencing system which confines men to the longest periods of exile in the Western world (indeed, he told the A.B.A. in 1970 that he is opposed to appellate review of sentences). He is perplexed by the failure of "rehabilitation," but evinces no interest in the problem of whether anyone can be "rehabilitated" in a prison environment if he has no reasonable expectation of release within a few years. Although he has generally endorsed the proposal that drunkenness and other "victimless" crimes (for which at least one-third of our arrests occur) should be diverted from the criminal justice system entirely, he refuses to consider extending that notion to drug offenses and other similar crimes.

His belief that the procedures and activities of the criminal justice system somehow are related to the incidence of crime (he argues that speedy trial of criminal cases "would sharply reduce the crime rate") is simplistic, though understandable. His contention that the true "injustice" of our society lies in its criminal justice institutions rather than in our general social and economic arrangements is shortsighted. His advocacy of manners and decorum in an inherently unruly society is quixotic and quaint. And where did he get the idea

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(expressed in an interview with the *New York Times*) that "It was never contemplated in our system that judges would make drastic changes by judicial decisions" and how does it square with his belief that "change is the very essence . . . of the common law concept" and with his knowledge that such "drastic changes" have been the staple of Supreme Court decision-making—before 1937, on behalf of big business? How does he pose as an ethical leader when, in the wake of the Fortas and Haynsworth scandals, he undid a Warren proposal for full financial disclosure by federal judges (prompting one critic to note that "Earl Warren [proposed] measures that amounted to a semi-revolution in ethical norms for federal judges; Burger was part of a counter-revolution")?

Burger's ideology does not disqualify him as a reliable critic in many areas of public concern. Rather, it severely constricts his field of vision. Insofar as the Chief Justice of the United States has a noble role to perform in alerting the organized bar and the public to the need for reform of our judicial institutions (his more general reform impulses present debatable issues of competence and separation of powers), the blinkers that limit him limit all of us.

DIVORCE, SI — PAPA, NO

HENRY TEN KORTENAAR

Almost 60 percent of Italian voters refused to do away with the law

It is a sound rule that a reporter should never quote himself, and I don't remember ever breaking it. But this time I cannot resist the temptation. Two years ago, writing on the divorce question in Italy, I referred to the Concordat of 1929, by which Mussolini and Pope Pius XI "decided, over the heads of the Italians, that theirs was a Catholic nation." I concluded: "If the referendum (i.e., the popular vote on the repeal of the divorce law of 1970) is to bring any clarity, it is surely not on the question whether this is true, but whether the Italians still want somebody else to decide it for them." Now the referendum is over, and almost 60 percent of the Italian voters have refused to do away with the law, despite the pressing invitations of Pope Paul, the bishops and the official Catholic party, the *Democrazia Cristiana* (for the occasion joined, once more, by the Fascists of the MSI, *Movimento Sociale Italiano*) to vote "yes."

In the first comments on the results everybody agreed that the Catholic Church had been the big loser in the contest. And if one considers the mounting interventions of the hierarchy during the campaign and the official reactions afterwards, it would seem difficult to come to any other conclusion. At first the bishops' conference had published a moderate declaration, which, while leaving no doubt that it was every Catholic's duty to vote for repeal, rejected the very idea of a "war of religion" on the divorce issues. Some bishops (notably Cardinal Pellegrino of Turin) even made separate statements, emphasizing the freedom of conscience and forbidding their priests to interfere in what they considered a civic, not a religious debate.

But gradually the intransigent wing of the episcopate took over. Cardinal Siri in Genoa began to preach a new crusade: the only freedom of conscience he recognized was the freedom to choose between sinning and not sinning, between the fire of hell and heavenly reward. To vote against repeal, he declared, was mortal sin. His example was followed by many bishops, especially in the South, and a large section of the clergy. And as the date of the referendum drew near, their reactions became almost hysterical: priests were suspended (Giovanni Franzoni, the former abbot of St. Paul's, among them), laymen were declared apostates, associations were dissolved—in short, the whole arsenal of the old authoritarian Church was produced from almost forgotten closets.

But this time it did not work, and there can be no doubt that *this* Church has forever lost the battle. Pope Paul expressed his "astonishment and grief" at the outcome—and the bishops deplored that the Christian model of marriage had disappeared from the law of the land. The results had in fact confirmed the opinion of those Catholics who had maintained that the Church could no longer pretend that its religious models and values should be upheld by state law, and that its real task in a modern society consists in freely witnessing to the Gospel, without power or compulsion. Despite the violence of the official reactions, it was their opinion which prevailed and swayed a considerable portion of the Catholic vote.

In a true sense it can therefore be said that the Church is among the winners, too—but it is a different

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Church from the one represented by Siri and his followers. A new type of adult Christian has emerged and made his options for a new kind of Christian presence in the world. What the Council never achieved, was done by the referendum—or rather, the referendum has brought to light what the bishops have always refused to admit: that the Council has done its work in Italy, just as in every other part of the world. The "new Catholics" are not the obnoxious minority the bishops thought, which could easily be disposed of by declaring them "outside the ecclesial community" (the use of the horrible word "ecclesial" is one of the bishops' concessions to the "spirit of the Council")—they are rapidly becoming that community, or at least a considerable part of it. The sooner the bishops realize this, the more hope there is that the Church will still have an important role to play in modern Italy, and that the defeat may turn out to have been a victory.

The adjustments will take much time and a new leadership (which is already emerging); but there are signs that the bishops have taken notice. In their post-referendum statement, while deploring that a large number of Catholics had not followed their prescriptions, they suggested these persons might allay their supposed remorse by promoting modern legislation to protect the family and by a common effort to remove the causes of the family crisis, such as unemployment and under-employment, emigration, lack of low-cost housing, etc. Certainly a sensible and timely program, but how much more sensible and timely it would have been if proposed before, and instead of the absurd referendum!

Another place where the outcome of the vote will be the topic of some interesting reflections is at the headquarters of the *Democrazia Cristiana*. This party owes its power to the all-out support it used to receive from the Church in the past, when most of its canvassing was done from the pulpits. Since Pope John's days the relation had grown a little lukewarm, but this time the *D.C.* had high hopes of victory, since it had succeeded once more in rallying the Church to a common goal. After the disappointing result it faces a difficult choice. Either it seeks to re-establish a link with the Catholic dissent, which has swung to the left and has other aims than confessional power-politics—but for this it is probably too late and besides, the party is hardly fit for such an enterprise. Or else, it chooses to be what in fact it has become: a moderate conservative party, which might successfully try to catch votes from the Fascists to their right. In both cases it would have to give up the impossible pretense of representing Italian Catholicism. Old illusions, like soldiers, die hard, but it will be interesting to watch developments in the years ahead.

It is clear that there has been more at stake than the mere survival of the divorce law. On the night of May 13 I was in the Piazza Navona, where thousands of nay-voters had assembled to hear the results and to celebrate the victory. In the many years I have spent in this country, I have seen a good deal of exuberance, but I don't recall ever seeing so much of it. The most vivid impression I got was of almost youthful elation at a common act of disobedience, an adolescent revolt against parental authority.

Before the referendum, there had been some perplexity as to the wording of the question on the voting-papers. It said: Do you want to repeal the law nr. 898, of December 1, 1970, on the regulation of marriage dissolutions? This meant that those who were against divorce had to vote *yes*, and those who were for it, *no*. In a country where votes in parliamentary elections are still given to party symbols, not to list numbers or names, because of the still considerable number of illiterates, the problem of how to explain the apparent contradiction to the simpler voter seemed insoluble. The opponents of the divorce bill invented brilliant slogans, such as *YES, as on the first day of your marriage*; the others did no such thing, just covered the walls with gigantic *No*'s.

And as it turned out, they were right. The mere word *No* had an irresistible attraction for the majority of Italians. And I must confess that on that night I envied them. Who has not dreamt of the chance to say *No* to all the pseudo-fathers, the know-alls, the moralists, who know so well "what is good for us," who keep deciding, without ever asking us, but always (of course) "for our own good"? The Italians had that chance, and used it. What they celebrated that night was their coming-of-age. The vote did not solve any of the very serious problems their country is struggling with, but it was certainly worth one night's roaring festivities.

HENRY TEN KORTENAAR

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MARGARET DIORIO

BRINGING IN THE PLANTS

More than peat moss clung to my fingers
I remember thinking, pausing to
reflect on the begonia my hands held,
and our encounter in an October drizzle.

I had been potting and repotting plants
an hour perhaps. Human scenery like
the empty outdoor window boxes
receded, voices faded though briefly.

I pressed on knowing if no one
brought in the philodendrons, frost would kill them,
if left untended the geraniums would die.

Something, someone, doubtless, is attendant
on my house and being, that, not unlike the plants,
were set out for a season on the Earth.

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HOSPITALS AS NEIGHBORS

PETER FREIBERG

The conflict between institution and community

Once upon a time, hospitals may have been thought of as good neighbors, but that era appears to have passed in New York and other cities. Increasingly, the advantages of living near a hospital are viewed as being overwhelmed by the threat to neighborhood stability posed by expanding institutions. Arguing that they must grow to attract qualified staff, keep up with new technology and improve research and health facilities, hospitals have destroyed sound housing, forced families and retail businesses to move and created streets that are unsafe not only for remaining local residents but for the personnel the hospitals seek to recruit.

Nowhere have the conflicts between institutions and communities been more intense than in a section on Manhattan's East Side dubbed "Bedpan Alley" by neighborhood and tenant groups. This area, which still retains a mixed-income population living in tenements, brownstones and high-rises, contains four hospitals within one six-block strip—and three major medical institutions just a few blocks away. Of the numerous disputes that have erupted out of this volatile mix, none has evoked more bitterness than a four-year-old battle between Columbus Hospital, an 82-year-old institution founded by St. Frances Xavier Cabrini, the first American saint, and a group of determined tenants in two tenements that the hospital has sought unsuccessfully to demolish for a parking lot.

The Columbus controversy dates back to December, 1969, when the hospital bought the twin tenements across the street from its main building on E. 19th Street between Second and Third Avenues with the object of making 27 parking spaces for staff cars. Mark Fresco, who is currently serving as a hospital attorney but was not involved in 1969, says the hospital "never wanted to do anything that would create controversy." Columbus, he says, was an "innocent victim" of pressures beyond its control, including tenant leaders who focused their wrath on Columbus to boost their drive to save low-rent housing. "It's not customary within the normal understanding of land ownership," says Fresco, "that every Tom, Dick and Harry will be a party in deciding what a private organization does with the land it holds in private. The hospital has been subject to the will of the community. I don't say it's wrong that the community should have some say, but I wonder how much say."

At the time of purchase, 47 of the 48 apartments in the two buildings were occupied, along with a storefront used by a newspaper delivery firm. Even in 1969, the apartments were badly in need of repairs, but the fact that they were rent-controlled (a one-bedroom apartment rents for $52 a month) made them worth holding onto. Unable to evict the tenants because of the rent control law, Columbus hired the Urban Relocation Co., a firm that was later served with a citywide injunction by the State Attorney General against harassing tenants, to relocate them. Stipends ranging from $300 to $2,500 were offered tenants to leave, while the building, according to tenant leaders, was allowed to deteriorate. About two-thirds of the tenants, including a number of Puerto Ricans and elderly people, did move out.

Nevertheless, it soon became clear that Columbus had severely miscalculated. It had underestimated the tenacity of a substantial number of tenants. It had not envisioned the extent of support the tenants would receive from community organizations and elected officials in "Bedpan Alley." And it had not reckoned with the organizing and publicizing ability of William Worthy, a journalist who lives in the building. "The obscenity of trying to tear down 48 good apartments in a safe and very pleasant neighborhood for a 27-car parking lot is enough to get any self-respecting person's back up," said Worthy. "It's a flagrant example of institutional ruthlessness."

In August, 1971, the tenants were presented with a major opportunity. Like more than half the city's hospitals, Columbus is a "voluntary" institution—privately operated (by the Missionary Sisters of the Sacred Heart) but non-profit. On the average, about 80 percent of the revenue from such hospitals now comes from governmental appropriations. Columbus had applied for a $39.7 million low-interest state mortgage loan to build a 16-story acute-care wing adjacent to its main building. When the application was on the verge of being approved, the tenants filed suit to block it.

Although legal grounds for stopping the approval were flimsy, the tactic worked. Frightened by a possible

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delay, Columbus agreed to negotiate. Within short order, an agreement was reached. In return for the tenants' withdrawing their suit, Columbus signed a contract stipulating that the buildings would not be demolished, Urban Relocation Co. would be fired and replaced with a respected management firm, no attempts would be made to relocate tenants or induce them to move through money offers, and the numerous housing violations would be corrected.

Urban Relocation was fired (although no replacement was brought in) and some repairs were made, but tenants say the hospital never intended to live up to the agreement. In June, 1972, Columbus disavowed the contract and offered each tenant $8,000 to vacate the apartment, with the option of moving into a new building that the hospital proposed for construction above a 50-car parking garage. "They'd taken such punishment for the 27-car parking lot," says Worthy, "that they thought they'd embroider it with housing above. There was no funding and they never intended to build the housing."

Tenants and local politicians instituted a half-million-

dollar damage suit against Columbus for breach of contract. Columbus counter-sued, charging that it had been "coerced" into signing the agreement. In the midst of the furore, a tenant procession led by Father Daniel Berrigan on the occasion of Mother Cabrini's feast day received wide publicity, as did a demonstration last September that persuaded Terence Cardinal Cooke to cancel his scheduled appearance at the dedication of Columbus' new acute-care center. The New York Archdiocese had reportedly urged the hospital to sign an agreement worked out in last-minute negotiations prior to the dedication, but the hospital refused.

Meanwhile, the tenants continued a rent strike they had begun, sending their money to be held in escrow by their lawyer, Robert Ferrari. Three months ago, Columbus began eviction proceedings for non-payment of rent, the tenants countering that the landlord was refusing to provide essential services. The case went to the city's Housing Court, where Stanley Nason was assigned as hearing officer. Nason offered to disqualify himself on the grounds that he had headed the East Side local planning board, an advisory body that strongly supported the tenants. But Columbus said it was willing to have Nason serve as hearing officer—a clear indication the hospital had decided it wanted a settlement.

The hospital then suggested the general outlines of an agreement whose details are now being worked out by lawyers for both sides. The proposal calls for the six tenants in one building to move into the other while their building is renovated. Upon completion, they would move back, paying relatively small rent increases. The 12 tenants in the second building would then go through the same process while their building was renovated. The hospital would be able to charge market-value rents in new apartments not occupied by present tenants.

By mid-June, there was still no settlement. What Worthy calls "four years of bad faith" have produced an intense distrust of any hospital proposal, even one that seems fair on the surface. Tenants have pressed for tighter protective guarantees, expressing skepticism at the same time that the hospital will sign such a document.

While Fresco says the controversy "is not a case of a domineering institution spreading its tentacles through the community," Worthy says the hospital, which owns several other nearby buildings, has a "grand design" to eventually expand on its entire square block. Certainly, the Columbus conflict is an example of some of the problems pinpointed by a special Task Force on Medical Facilities Expansion established by the New York City Planning Commission. The Task Force, composed of hospital, community and city representatives, called attention to displacement of low and moderate-income tenants, poor housing management, secret assemblage of land, traffic congestion, the "seeming indifference of some institutions to local (health) needs as compared to research priorities" and the failure of many hospitals to consult citizens when planning physical expansion or health services.

Other critics charge that hospitals often decide what to build on the basis of available funding rather than on health needs. While there is no question that expansion is sometimes necessary, hospitals have shown little willingness to experiment with decentralizing their facilities.

The Planning Commission, which has often been accused of favoring institutions applying for zoning and other approvals, is currently considering the Task Force report. One major recommendation in the report stated: "When reasonably priced housing is in short supply, as at present, institutions should seek to avoid unnecessary or premature destruction of good housing."

After four years of battling, it remains uncertain whether a settlement will be reached in the Columbus dispute. Whatever the outcome, however, the larger challenge of how to control hospital expansion so that neighborhoods are not damaged remains to be met.

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AT LAST MONTH's annual convention of the Catholic Press Association of the United States and Canada, meeting in Denver, Colorado, the CPA Board of Directors adopted the following resolution:

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THE STAGE

One man's sentimentality is another man's substance. Except for Leonard Melfi, Lanford Wilson has always struck me as the schmalziest of the up-from-off-off-Broadway playwrights. Yet, Marshall W. Mason, Wilson's friend and director, defended him in a Sunday *Times* interview (May 12, 1974) as an "*honest* Saroyan" after attacking the older playwright for being "gushy, sentimental." Mason is the artistic director of the Circle Repertory Theatre Company, presently the most vigorous of the off-off-Broadway organizations. The group performs the work of classic playwrights from Aeschylus to e. e. cummings with a heavy emphasis on the great modern writers—Chekhov, Ibsen, Strindberg—but it is known primarily as the source for a handful of new American plays that have moved into successful off-Broadway runs where they have been celebrated both for their productions and for themselves. What they share, according to Mason, is a concern for values; what they share, so far as I am concerned, is a return to old-fashioned realism and a healthy respect for stereotype and—I'm sorry—sentiment. Their success, like that of *The Championship Season* and *The River Niger* on Broadway, may be trying to tell us something about the New York audience.

Wilson's *The Hot L Baltimore*, which won a Critics Circle award for 1972-73, was the first of the plays to move into an extended run, which it is still enjoying at the downtown Circle in the Square. As with so many Wilson plays, it is a milieu piece, a gathering of types—this time in a down-at-heels residence hotel soon to be torn down, the only community or family that most of the inhabitants know. The virtue of the production, when I saw it early in the run, was the ensemble playing of the company, a delicately balanced presentation marred in only a few instances by the kind of overpunching that turns character into caricature. The most obvious example was Mari Gorman as tough, boyish Jackie and, ironically, her performance was singled out for high praise, an indication, I guess, that you have to punch some critics to get their attention. Since casts change and productions tend to unravel during a long run, the ensemble may no longer be all that impressive in *Baltimore*, but the play is still available for anyone who wants to see the work of a playwright who approximates Mason's concept of the "ideal writer."

The Sea Horse, by James Irwin (really Edward J. Moore, the play's co-star), the Circle's most recent contribution to off-Broadway, shows that Mason, as director, is as comfortable with a two-character play

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as he is with an actor-packed kaleidoscope. The play catches its characters—the tough proprietor of a waterfront bar and her seaman lover—at the moment when the lover's proposal of marriage forces to the surface her fear of commitment and his sense of his own inadequacy. The playwright doles out biographical details as though he had learned from Ibsen that you can keep an action in the present going by feeding it with facts from the past. Sometimes the process becomes too mechanical—another turn for turning's sake—but the characters take on a touching solidity, partly because they are around and talking for so long and partly because the performers flesh them out. This last may seem an unfortunate choice of phrase since the actress is Conchata Ferrell, a very fat woman whom I first saw as the noisy prostitute in *The Hot L Baltimore*, but Ferrell is not only an actress of considerable skill, she is also, despite her size, one of the loveliest women to turn up on the New York stage in recent years. It is her presence, I think that takes the saccharine edge off the final curtain, the desperate but tentative embrace of the couple, and that makes the play as effective as it is.

Mark Medoff's *When You Comin' Back, Red Ryder?*, the third of the Circle transfers, is directed not by Mason, but by Kenneth Frankel. Perhaps for that reason, the production is consistently and annoyingly artificial. Medoff's diner, for all the attention to realistic detail (wiping the counter, pouring coffee), never becomes as real as Wilson's hotel lobby. Kevin Conway is the Mari Gorman of this production, giving an eccentric performance, heavy on tricks and—for me, at least—completely without the menace that the play demands and that others have found in it. It is true that Teddy has no personality of his own and has constructed one (or several) of mannerisms borrowed to hide the fact that he is another loser in a world which has lost its heroes, but the borrowings seem to belong to the actor rather than the character. Other performers—notably Elizabeth Sturges as Angel—are saddled with physical business that conveys not character but the insistence that work has been done on this show. The play itself is a mixture of possiblities which never quite merge into a single work. On the surface, it gives us a demented young man, a bully, perhaps a moralist turned evil side up (cf. Charles Manson), tormenting a group of people in a diner. He is never clearly a metaphorical figure, as Duke Mantee is in Robert E. Sherwood's diner in *The Petrified Forest*, but all the harping on long-gone Western heroes (the answer to the titular question is "Never") suggests that he is the product and the victim of an America which has moved away from old certainties or, as Mason would say, old values. Then at the end, it turns out that everyone has somehow been changed—some of them strengthened—by his treatment of them, and the whole thing begins to suggest a parody of *The Passing of the Third Floor Back*.

This is hardly a dancing-in-the-streets review, but let me temper my negative reactions by insisting that, despite any shortcomings in these three productions, the Circle is plainly alive and sure of itself and that, in these tired and tepid days, is important to the American theater.

GERALD WEALES

WHAT'S ENTERTAINMENT?

THE SCREEN

Peter Bogdanovich is turning out to be, disappointingly, a master of atmospheres and periods. It's a vague talent not to be confused with movie direction. Bogdanovich's Hollywood heroes are John Ford and Howard Hawks. But in the context of *The Last Picture Show* and *Paper Moon*, even *What's Up, Doc?*, Bogdanovich's tribute to Hawks' comedy style, begins to look like mere screwball atmospherics, as if old movies were themselves simply another historical epoch for Bogdanovich to recreate. Despite his admiration for Hawks, Ford, Welles, Lang, et al., Bogdanovich's own talents seem more compatible with another Hollywood tradition, that of the tasteful adaptation and the "quality" dramatic film—the tradition of Cukor and Victor Fleming rather than Hawks or Ford.

This is what *Daisy Miller* would suggest anyway. Bogdanovich's adaptation couldn't be more scrupulous about following the original Henry James novella, and the locations, the costumes, the lighting—ah, especially the lighting—could hardly be more becoming. The film is (how shall one say it?) roseate. It glows—like the unassumingly innocent Daisy herself. Even Cybill Shepherd does not acquit herself so badly as one might have feared. She talks very fast, apparently so that the emphasis will be distributed absolutely evenly over everything she says and nothing will take on special significance. That way, Bogdanovich must have reasoned in his direction of Miss Shepherd, nothing Daisy says will seem arch or revealing, and she will remain inscrutable as she ought. The only indiscretion is what appears sometimes in Miss Shepherd's glance, a come-hither look that she also uses to sell eye shadow and that creeps in ineluctably, but nonetheless inappropriately, here. James was careful not to let anything so direct and certain as a *look* get into his novel, where moral innuendo is the only action and everything else, from kissing to dying, happens in the wings with hardly a mention.

Still, the movie is a perfectly lovely evocation of the Grand Tour in the late 1800s. It provides the ideal

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setting for a recitation of James' dialogue. It is in impeccable taste, and what could be more fitting for an adaptation of James? Well, perhaps something that was more a movie on its own terms could be. When I want pure James, I can always read James. Movies I go to for movie art.

That's Entertainment certainly is—entertainment, that is. The film is an anthology of song and dance numbers from over twenty-five years' worth of MGM musicals. MGM is where the real musical headliners were too. Fred Astaire, Ginger Rogers, Gene Kelly, Frank Sinatra, Eleanor Powell, Anne Miller, Debbie Reynolds, Howard Keel, Mario Lanza, Judy Garland, Mickey Rooney, Donald O'Connor: they all appear in this film in sequences from their best musicals. Again, though, the ultimate result is rather disappointing, like a smorgasbord where you get a bite of everything and come away still feeling you haven't had a meal.

The man who put the film together, Jack Haley, Jr., has chosen a very didactic format in which some appropriate MGM star like Sinatra or Astaire, or Jimmy Stewart (Jimmy Stewart?), introduces each sequence. But if Haley wanted to make this a history lesson in the Golden Age of Musicals, he might have given equal billing to these films' directors and songwriters. Since he hasn't done so, you often get the feeling that the films came about because the stars in them just burst spontaneously into song and dance one day, much as the characters the stars play are supposed to be doing. Nothing could be further from the truth, of course. Though Haley may have preserved this illusion from the original musicals to make his own film feel more like a musical, it seems very narrow and presumptuous of him. He has had the gall to bill himself as a "director" without giving credit to any of the directors, writers and musicians who made these musicals in the first place.

The other problem with anthology films like this is that they are great levelers. They make five minutes from one of those Esther Williams water ballets seem as entertaining as five non-stop minutes of tap-dancing by Fred Astaire and Eleanor Powell. To appreciate how good Astaire and Powell really are, and how clunky the Esther Williams number is, you have to see a whole film of each. In the end *That's Entertainment* is perhaps not such a bad history lesson after all, for it is itself limited by the same MGM philosophy to which the original musicals had to conform. The film's final sequence, the all-talking-all-singing-all-dancing finale, is the ballet sequence from *An American in Paris*, which is introduced as the greatest movie musical number ever. Hooey. Having Gene Kelly make a spectacle of himself, as if he were Esther Williams too, is not exactly MGM's greatest accomplishment. But it's typical of MGM to think otherwise. Thinking like this is what has now gotten MGM out of the movie business, and into running a Las Vegas hotel.

COLIN L. WESTERBECK, JR.

BOOKS

HOMEMADE A-BOMBS

WILLIAM LANOUETTE

The Curve of Binding Energy

JOHN McPHEE

Farrar, Straus, $7.95

Nuclear Theft: Risks and Safeguards

MASON WILLRICH & THEODORE B. TAYLOR

Ballinger, $13.50; Paper $4.95

For all its technical complexity, there are a few facts about nuclear power that are quite simple. Here's one: "To produce enough electricity to keep Yonkers going for a year, a . . . nuclear reactor would make, as a by-product, just about enough plutonium to obliterate Yonkers."

Add to that statement the premise that it's much easier to make a crude atomic bomb than most people think. Consider that clandestine A-bomb makers need less than 10 pounds of plutonium or 25 pounds of enriched uranium to make a kiloton-range explosive. Then look at the nuclear-power industry's estimates of the hundreds of tons of plutonium and enriched uranium that will be in use and produced as scrap during the next quarter century.

These simple assumptions lead to the grim possibility that terrorists might be using home-made nuclear devices within the next decade or two. The two books consider the consequences of that possibility; they present in simple and logical progression the factual context that supports such a possibility. But most important of all, they attempt to work out some practical strategies that might minimize or prevent that grim possibility from becoming a reality.

While the two books deal with many of the same facts, and share many assumptions about the possibility of nuclear terror they differ fundamentally in style and approach. Each makes fascinating and compelling reading, and taken together they provide the psycholog-

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ical setting and the factual basis for a layman's understanding of a complicated but critical topic.

McPhee's book, which is a profile of the nuclear physicist Theodore B. Taylor (it appeared originally in *The New Yorker* last year) looks at the possibility of nuclear terror through the eyes of a man who had worked at Los Alamos miniaturizing atomic bombs for the Defense Department. Taylor knows how to make a small A-bomb (as small as a cantelope, in fact), and to convince the general public that the task isn't terribly difficult he describes some of the steps that an individual, or a small group of educated conspirators, would follow to make a nuke.

It is McPhee's genius to be able to combine large amounts of technical background information with the intense spirit of Taylor's imagination, giving us an insightful and fascinating blend of practical and personal detail. The quote about Yonkers comes from McPhee's book. So do several surprisingly dramatic explanations of atomic physics—the making of electric power, the splitting of an atom, the creation of plutonium, and the dynamics of a nuclear explosion.

With Taylor as his guide, McPhee takes us on a stroll through the World Trade Center to consider what a terrorist would need to do if he were intent on toppling that monstrosity. "There is a level of simplicity," Taylor says as he stands on an unfinished floor of the Center, "that we have not talked about, because it goes over my threshold to do so. A way to make a bomb. It is so simple that I just don't want to describe it. I will tell you this: Just to make a crude bomb with an unpredictable yield—but with a better than even chance of knocking this building down—all that is needed is about a dozen kilos of plutonium-oxide powder, high explosives (I don't want to say how much), and a few things that anyone could buy in a hardware store."

Taylor himself becomes the author of the second book, with Mason Willrich, a lawyer who has worked on arms control and nuclear safeguards for the U.S. Arms Control and Disarmament Agency. Their study, which is published by the Ford Foundation's Energy Policy Project, describes in some detail the nature of nuclear power, the steps in the nuclear fuel cycle where theft is easiest, and the safeguards, risks and costs involved in present and future operations of the U.S. nuclear industry.

"Without effective safeguards to prevent nuclear theft," they write, "the development of nuclear power will create substantial risks." But, if implemented, there are a few safeguards that can reduce those risks to "a very low level." Willrich and Taylor focus especially on questions about who might want to steal nuclear materials, how this might be done, and what industry and government might do now to prevent a number of possible nuclear terror scenarios.

It can become quite easy, and fascinating, to speculate about possible techniques for nuclear terror; a kind of mental puzzle that requires the skillful

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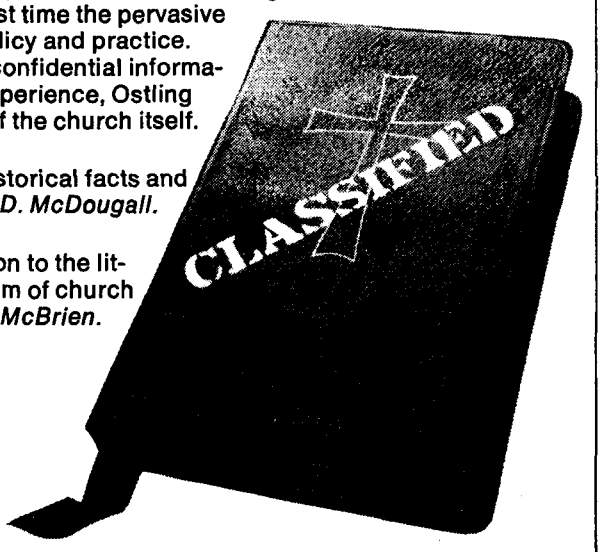

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and inventive combination of physical certainties (the periodic table of elements, radiation levels of various isotopes) with political and psychological unknowns (the susceptibility of certain governments to blackmail, the limits of credibility and likelihood of successful hoaxes, the motivation of dissident individuals and groups). But if these books inspire you to such speculation, they may also have you wondering about how to devise your own safeguards. And from that view it becomes intriguing to wonder what your elected representatives and your nation's bureaucrats are devising. As the authors conclude: "None of man's previous discoveries compares with nuclear energy in terms of the demands placed on him to use it wisely. Indeed, the widespread use of nuclear energy requires the rapid development of near-perfect social and political institutions. This is the unprecedented challenge before us."

It is probably the greatest achievement of these two books, and their authors, that they allow the inquisitive reader to consider nuclear energy not as a technological mystery, but as a force that is just as prone to personal and political influences as it is to the laws of nature and science. They allow us to see the atom in terms that are essential to the debate and definition of public policy. For it is only in that context that the atom's power can ever be controlled.

Mother Jones: The Miners' Angel

DALE FETHERLING

Southern Illinois Press, $11.85

RUSSELL W. GIBBONS

"Pray for the dead," Mrs. Mary Harris Jones told a wretched group of striking West Virginia miners, "and fight like hell for the living!" That a woman should utter such an admonition in the year 1902 was an assault on the transparent American tradition of gentility, but given that Mrs. Jones was a little 72-year-old lady, a bonnet on her snow-white hair and attired in a black silk basque with a lavender vest and lace around the neck, was enough to ensure her life as a challenge to future historians and biographers.

For "Mother" Jones has been legend in the four decades since she has been dead and in fact was a living legend for as many years of her life. Indeed, she may be one of the more remarkable American women which the republic has allowed to alter its course, yet few have known her history. Born in 1830, seven years before Queen Victoria ascended the throne and less than 50 years after the end of the American revolution, she died at the threshold of the New Deal and the CIO. She quoted from Lincoln's speeches which she heard him make, and yet in her last days of activity was to use the telephone, the radio and the automobile.

She thrived in the era of social discontent and economic upheaval which produced a labor movement born of secret groups of hunted men. They were the days of "the martyrs and the saints." At the age of 37 she was left a childless widow when a yellow fever epidemic in Memphis took her husband and four young children in one week. She was left with little more than her husband's fervent belief in trade unionism. For the next 60 years she would know no real home or family, but instead would adopt America's toilers. Carl Sandburg would write in *Memoir of a Proud Boy* that "He had no mother but Mother Jones." And millions would call her Mother.

When asked where she lived, she would reply: "Well, wherever there is a fight." She was a delight to those who saw and heard her, and today remains even more so to those who would fashion hero figures of those who urged on seemingly hopeless causes. Yet Mother Jones did not fit into neat historical compartments: she was Catholic yet outrageously irreverent; a rhetorical radical yet in many ways conservative in politics; an individualist who defied virtually every convention of her day, yet gregarious in fully exploiting the mass meetings and rallies of an evolving union movement, and finally an ascetic who knew little of the comforts she sought for the working people of her crusade.

Biographer Dale Fetherling, a native West Virginian where Mother Jones remains an active legend, has written a personal portrait which should remedy the 50-year-old lament of George West, who wrote in *The Nation* in 1922 that her life "is an epic and it is the shame of American writers that it has never been told." A California newspaperman, Fetherling has not produced a work for nostalgia buffs, or for ideological types seeking a barricades romantic school version of her life. Mary Jones was human, and a very human portrait emerges in his book.

"She would rally thousands of cheering men and tell them they were worthless," Fetherling says, "She would hobnob with United States Presidents and revolutionaries and be castigated and praised from one end of the country to the other." Her specialty was agitation, and in style Mother Jones emerged as a toilers' Joan of Arc—if a grandmotherly one—who led armies of the angry and the abused. And Mary Jones earned her niche in history "from countless cold nights in miners' hovels, sleeping on a bare floor with her handbag for a pillow. Or, the incredible journeys to reach such places, or the jails, in some of which she claimed she had to fight off rats with a broken beer bottle. In all, she was a benevolent fanatic, a Celtic blend of sentiment and fire, of sweetness and fight, who captured the imagination of the American worker as no other woman—perhaps no other leader—ever has."

She entered the world of men and bested them in verbal confrontations and the art of persuasion and propaganda. Although her mere 100 pounds and genteel appearance suggested the opposite, Mother Jones was not reluctant to urge violence when violence had been done to "her boys." High position did not impress her, for she had no betters. To their face, an anti-union federal judge was "a scab" and a corporation president "a high class burglar." If Mother had not left her native Ireland, a fellow labor agitator

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observed, she "probably would have been hanged—or have been President of the Irish Republic."

Contemporary liberationists would have a difficult time enshrining Mary Jones, however. While a pioneer of social change, an organizer, a champion of rights and of dignity, she was nevertheless adamantly opposed to women's suffrage. "I have never had a vote and I have raised hell all over this country," she said. "You don't need a vote to raise hell—you need convictions and a voice!" Perhaps her own personal tragedy had brought her to the now reactionary posture that women belong in the home with their children. "Home training of the child should be her task, and it is the most beautiful of tasks," she said after suffrage was enacted. For Mother Jones there was only one struggle—the economic battle which embraced all organizations, movements, men and women. On this issue she was poles apart from most of the other female activists of her day.

What mattered about Mother was not her motivation, but her style. And grand and glorious it was. Consider this rebuke to a mass meeting of miners in Raleigh County, West Virginia in 1917: "You goddamned cowards are losing this strike because you haven't got the guts to go out and fight and win it. Why the hell don't you take your high-power rifles and blow the goddamned scabs out of the mines?" (The next week a fusillade of 300 rifle shots closed the mine.)

Like many a spellbinder and leader, Mother was "consistently inconsistent" in her preachments and practices about violence, unions and politics. Despite the fact that she had become a critic of the growing conservatism of labor leaders in the first decades of this century, Fetherling observes that Mother Jones was "herself a revolutionary only on impulse and not upon reflection." Yet addressing a group of striking steelworkers in Gary, Indiana in 1919 she declared that "if Bolshevist is what I understand it to be, then I'm a Bolshevist from the bottom of my feet to the top of my head." The strikers cheered her for a full five minutes.

True to her style, however, she would in the end make peace with the chief villain of her age, fellow centenarian John D. Rockefeller, but one of her last acts before her death in 1930 was to support a movement in the Miners union to oust John L. Lewis, who Mother felt "had betrayed my boys." When Rockefeller sent her a telegram on her 100th birthday, speaking of Mother's "fearless adherance to your duty as you have seen it," she mellowed and said that he "had a Christian heart." That alone would have rubbed Mother out of the litany of saints of most Revised Standard Editions of labor history.

But, as Samuel Johnson suggested, "seldom is any splendid story wholly true." Mother's ideological biographers may have likened her to a flawless industrial Carrie Nation, swinging away at tyrants and bosses, clothed in truth and utter dedication. In truth, she may have known days of little glory in addition to those of intense personal loss. Her detractors spread anonymous tracts calling her a onetime prostitute and madam, which she attributed to a position she took in a letter to a newspaper protesting the policy of the church in denying burial of a prostitute for whom she had once done sewing. Yet also in truth, her story is about as splendid as anyone who lived a full century can claim. Even in death, she was agitating: she is buried in the Miners' cemetery in Mt. Olive, Illinois, the only union-owned plot in the nation. The high class burglars of today would never have understood that.

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IN BRIEF

AN ETHIC FOR CHRISTIANS AND OTHER ALIENS IN A STRANGE LAND, *by William Stringfellow, Word, $5.95.* "The gift of discernment," Stringfellow writes, "is basic to the genius of the biblical life style." That gift encompasses the ability to see the "remarkable in common happenings," the reality of resurrection in a time of despair and the transforming power of the Word of God in the absence of miracles. Stringfellow has the

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REVIEWERS

WILLIAM LANOUETTE is on the staff of *The National Observer.*

RUSSELL W. GIBBONS, a long-time contributor on labor affairs, has also appeared in *The Nation, The New Leader* and *Dissent.*

ELLIOTT WRIGHT is on the staff of Religious News Service.

On Chastity:
"Chastity does not forbid love; it is the defensive weapon of love."

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gift in large supply, and in this new book the theologian-lawyer sets forth what he discerns about America by viewing the nation biblically, more especially, through the eschatology of Revelation. Babylon is the image that emerges, not Babylon as symbol of a wicked place but Babylon the epitomy of fallen creation, the realm of death. The author is not surprised that civil rights and peace movements of the 1960s failed to produce a benevolent society. Institutional targets of reform are, in his view, principalities, creatures of death that are not amenable to the corrective efforts of likewise fallen people. "Cows and corporations" are fallen; the Fall itself more than the consequence of human sin. Since Stringfellow says little about the nature of fallen bovines or other examples of non-human creation, there is room to challenge his assertions about the impact of sin. It just may be that human willfulness is aggressive enough to produce the disorientation he calls the Fall. The book, however, is persuasive in arguing that the state—any state—is paramount principality, committed to death. What about hope? "Resistance to death is the only way to live humanly in the midst of the Fall," Stringfellow advises. Speak the truth in Babel. The only hope he sees is in faith. There is *no* hope for America, and the Lord's song in this strange land is "the heavenly chorus at the doom of Babylon." Stringfellow is the modern American church's Jeremiah: He cries woe and lives hope. Many will disagree with his book. None looking for a word from God will dare ignore it.

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CORRESPONDENCE

(Continued from page 347)

sciousness of belonging to the "Doubtful Strait" which is the scene of his great epic. This consciousness, political but transcending politics, lends continuity to the contrasts created by his maturing sensibility, from the early love lyrics to the Gethsemani poems and the *Salmos*.

The work of others, too, is viewed *sub specie Nicaraguae*. Thus Cardenal identifies as a "special circumstance" which differentiates two Jesuit poets "essentially" the fact that one, a Spaniard, has been in Nicaragua while the other, an Englishman, had not: "I say this because a reading of any of his poems is enough to make it clear that for him the presence of the Nicaraguan landscape is always felt as a sense of relief." This may be an overstatement —Gerard Manley Hopkins and Angel Martinez differ in other important ways. But the "fixed point of view" Mr. Christ inquired about is pretty evident (in the interview Cardenal deflected the question because its phrasing permitted him to talk about Pound and so on).

Cardenal's friend and colleague José Coronel Urtecho has pointed out that, up to the present, poetry is the only Nicaraguan product of universal value. It is distressing to have to note that the samples exhibited by *Commonweal* are adulterated goods. These are the only English versions I have seen of these poems, and I don't know whether they have been approved by Ernesto. If so, I can only observe that a poem once published has some rights held in trust by its readers which are not the poet's to abrogate. There is a strong-minded axiom of Ronald Christ's that "Writing translatable literature may not be a measure of greatness; but it is, after all, what we often mean by greatness." Be-that as it may, and whatever "greatness" may mean, any poem deserves to have its strength and weakness translated faithfully or else left untranslated.

When a poem has developed a series of images expressing nakedness, emptiness, solitude ("without any makeup, without her Press Agent, without etc.") why is the culminating simile ("sola como unastronauta frente a la noche espacial") perversely blunted by translating "noche espacial" as "galactic night" instead of something like "the night of space"? The galaxies are precisely the regions of space which are least empty and lonely.

Literal translation can be treacherous too, of course. What is the meaning of that odd quotation. "They broadcast the news . . ." in "Managua, 6:30 p.m."? "Transmiten la noticia . . " is in fact a typical introduction for the kind of radio news item one might hear under all that neon, as one might hear "From the wires of United Press International . . ." or "An unconfirmed report on the AP wire . . ."

Returning to the first poem, "chorro de luz" is not a conventional way of talking about light. It means something like "stream" or "jet" or "downpour" of light; it elicits echoes of Danae and

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the shower of gold. It is not suitably translated by "beam of light"; that meaning would have been carried by "foco" or "reflector" or "proyector" or perhaps "rayo."

Is that movie studio in the same poem as careless of its stockholders' interests as it is of the humanity of the actress? Why take the scene of the "kiss with closed eyes" again if "the scene had already been shot"? The scene has in fact been shot, exploited, only once: "la escena ya fue tomada," not "ya se había tomado." The translator has been misled by the word "ya," which means "already" but must often be left untranslated (cf. Latin "jam"): "because the scene has been (is now) shot."

Other examples might be cited: the capricious translation of "no culparás" as "You will not punish" instead of "You won't (or can't) blame;" the flabby rendering of "dulces" by "mellow;" and so on. Individually the violations are petty, even trifling. Together, they can determine for the worse "what we often" perceive in a poem.

Mr. Christ once dismissed *Viento Fuerte*, a novel by Miguel Angel Asturias, read in translation, as "hot air" which left him "winded." Gabriela Mistral praised *El Señor Presidente*, also by Asturias, as a "phenomenal work" which seemed written "with the ease of a drawn breath and of the movement of blood through the body." So for critics no less than for novelists and poets the spirit blows where it will. Pneumatic metaphors range from Pentecostal exaltation to the bathos of Colonel Blimp. And as it is with air, so with earth, water, fire, plain words full of beauty and danger. The young Ernesto Cardenal wrote:

They plunder the people's language
And falsify the words of the people
(Just as they do the currency of the people).
That's why we poets burnish a poem so carefully
And why my love poems are important.

Or, rather he didn't write that. The English I just chose, including the clumsy fourth line, asks you to believe that it has recreated the sense, feeling, tone, and intention of the Spanish he did set down. You may not know if I don't tell you, for example, that I omitted the first stanza, which anchors in particulars the otherwise suspect universals of the second (but those particulars are less accessible here than where they were experienced). And few readers in the U.S. may ever know the work of Ernesto Cardenal unless better translations are available.

Please. Let Linda Kuehl amend Muriel Spark's bibliography to include *The Group*. (Why not also *Little Women* and *The Valley of the Dolls*? They too bear some resemblance to *The Girls of Slender Means*.) And let Dennis O'Brien call Chesterton a "forgotten writer" who has left only "fragments," in disregard of nearly two full columns in the current *Books in Print* and of quotations and citations by such dissimilar authors as John Updike, Konrad Lorenz, and Bruce Vawter. Fun's fun, after all, and most of your readers should know better.

But for God's sake see if you can get Ronald Christ to quit mucking around with Nicaraguan poetry.

JULIAN J. IRIAS

Dear Mr. Irias,

Brevity is still the soul of wit.

RONALD CHRIST

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Michael Novak (Cont.)

What I find outrageous is the refusal of pro-abortionists even to *see* that there is another side to the issue besides their own. Let them work for their beliefs, as others work for theirs; but let them give their opponents dignity, too. Marion K. Sanders' recent article in *Harper's* spoke with all the nativist power of that magazine's hoary nineteenth-century anti-Catholic traditions. It was an insult. It is, I am sure, regarded by many as perfectly rational. That is what it means to share in majoritarian biases.

Those who are in various minorities in the United States—Catholics, Jews, blacks, others—need to know how to hear the fears and anxieties of others like themselves. Although our society is in theory a pluralistic culture, it is in fact—both in economic and in symbolic power—an insensitively one-sided culture. The powerful minority uses the less powerful minorities against one another, to cancel one another out. From human powers, we should expect nothing less.

But if we would more intelligently organize ourselves, and more sensitively help one another out at points critical to each of us, we might be able to check and to chasten monolithic power and make it as pluralistic in practice as it is in rhetoric, as accountable to all groups in America as it is to its own interests.

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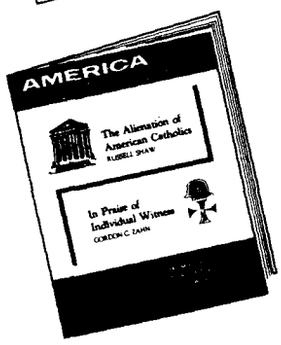

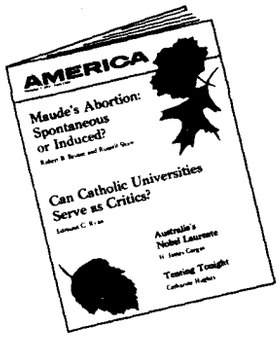

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